

Consent Agenda
Tree Removal Appeal Case A-2195

Removal of five (5) trees, as listed below:

- Two (2) 12.5” dbh Blue Spruce Tree; and
- One (1) 11” dbh Blue Spruce Tree; and
- One (1) 10” dbh Flowering Dogwood Tree; and
- One (1) 10.5” dbh Willow Oak Tree

located throughout the property to accommodate
proposed park development.

Ms. Linda Komes
M-NCPPC, Montgomery County Department Parks
5409 Grove Street



Figure 1: Two (2) 12.5 dbh Blue Spruce Trees.



Figure 2: One 11" dbh Blue Spruce Tree.



Figure 3: One 10" dbh Flowering Dogwood Tree.



Figure 4: One 10.5" dbh Willow Oak Tree.

To: Chevy Chase Village Board of Managers
From: Laura Billings
Date: July 23, 2015
Re: TOB Report Regarding Western Grove Park at 5409 Grove Street

The Montgomery County Department of Parks (M-NCPPC), represented by Ms. Linda Komes, wishes to remove several trees from Western Grove Park at 5409 Grove Street as part of a park refurbishment project. The refurbished “park is envisioned as passive in nature with pathways, a seating area with a water feature/fountain, a small play area, and a large, open unprogrammed, green area.” (M-NCPPC’s Appeal). The TOB understands that the refurbishment of Western Grove Park – and the resulting request to remove these trees – has been an extremely thoughtful and deliberative process involving the participation of the Chevy Chase Village Board, the M-NCPPC, adjoining Grove Street residents, and many other interested Village residents.

Of the ten trees M-NCPPC wishes to remove, five removals were administratively granted by the Village arborist pursuant to Chapter 17 of the Chevy Chase Village Code. M-NCPPC appealed the additional five removal requests, and the matter was thus presented to the Tree Ordinance Board (TOB) for review. The five trees subject to the appeal include a: 1) Blue Spruce of 12.5” dbh (tree 26); 2) Blue Spruce of 12.5” dbh (tree 27); 3) Flowering Dogwood of 10” dbh (tree 33); 4) Blue Spruce of 11” dbh (tree 83); and 5) Willow Oak of 10.5” dbh (tree 120).

The TOB has examined the aforementioned trees and is of the opinion that none is so exceptional as to preclude removal. Furthermore, based on the representations of Mr. Michael Younes, Director of Municipal Operations of Chevy Chase Village, the TOB understands that most abutting Grove Street property owners support the planned tree removals and proposed reforestation. Although some residents expressed concerns about the proposed removals, M-NCPPC and the Village aim to address these concerns in the reforestation plan. Notably, the refurbishment plan includes the additional planting of at least “15 canopy trees,” in addition to “masses of shrubs and perennials.” (M-NCPPC’s Appeal). Finally, the TOB understands that Chevy Chase Village and M-NCPPC are amenable to entering into a Consent Agreement reflecting the proposed removals and reforestation plans.

Given the foregoing, the TOB believes that requested removals and proposed reforestation are reasonable and consistent with Chevy Chase Village policies.

Submitted by:
Laura Billings
Chairperson
Tree Ordinance Board

Property Address: 5409 Grove Street

REFORESTATION CONSENT AGREEMENT

RECITALS

This Consent Agreement ("Agreement") is effective this _____ day of _____, 2015 by and between CHEVY CHASE VILLAGE, ("Village"), a Maryland municipal corporation and THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, a public body corporate and an agency of the State of Maryland ("Applicant"), with respect to 5409 Grove Street, Montgomery County, Maryland 20815, referenced as Liber 24309, folio 00147 and located on Lot 21, Block 5, in the subdivision known as Section 1A, CHEVY CHASE, as per plat thereof recorded in Plat Book 4 at Plat Number 349, among the Land Records of Montgomery County, Maryland (the "Property") which is owned by Montgomery County .

The Applicant and the Village share certain maintenance responsibility of the Property under a Memorandum of Understanding between the Applicant and the Village dated August 12, 2002.

The Applicant has requested a permit from the Village Manager under Section 17-3 of the Village Code to remove the following trees:

- One (1) 12.5" dbh Blue Spruce Tree, marked as T26; and
- One (1) 12.5" dbh Blue Spruce Tree, marked as T27; and
- One (1) 11" dbh Blue Spruce Tree, marked as T83; and
- One (1) 10" dbh Flowering Dogwood Tree, marked as T33; and
- One (1) 10.5" dbh Willow Oak Tree, marked as T120,

hereinafter referred to as the "Subject Trees" located throughout the Property as indicated on the plan attached hereto as Exhibit A. The trunk of each tree measures more than 24 inches in circumference at 4-½ feet above ground and therefore requires a permit for removal. The Applicant seeks to remove the

Subject Trees in order to develop the Property into a public park, hereinafter referred to as the "Proposed Work". The Village Manager has previously denied the permit for failure to meet any of the conditions set forth in Section 17-3. The Applicant has appealed the denial of the permit. The appeal was considered under the criteria set by Section 17-5 of the Village Code, by the Tree Ordinance Board ("TOB"), which has issued its recommendation.

The TOB, after following the requirements for notice to confronting and abutting owners and the Village Tree Committee, concluded that the Proposed Work was a legitimate reason for removing the Subject Trees, that it was necessary to remove the Subject Trees to construct the Proposed Work, and that each Subject Tree proposed to be removed was not by reason of its age, size or outstanding qualities, including uniqueness, rarity or species specimen, of such nature as to require its preservation.

Based on the foregoing, the TOB provided its recommendation, which has been accepted by the Village's Board of Managers ("Board"). The Board has decided that it is in the public interest to grant the Applicant's appeal and the permit, on condition that the Applicant signs this Agreement.

NOW, THEREFORE, in consideration of the mutual undertakings and obligations herein contained, One Dollar (\$1.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Village and the Applicant hereby agree and covenant as follows:

1. The Applicant will obtain all required permits to construct the Proposed Work.
2. The Village, after receipt of the aforesaid permits for the Proposed Work, will grant a permit to the Applicant for the purpose of removing the Subject Trees described above and located as indicated on Exhibit A promptly after the effective date of this Agreement.
3. The Applicant agree to reforest within two (2) years from the effective date of this Consent Agreement by planting the reforestation tree(s) (or variety thereof) of at least 2-½ inches in caliper in the location indicated on the plan known as Exhibit B ("Reforestation Trees") and to replace such tree(s) if it becomes diseased or dies within two years of the effective date of this Agreement. The Applicant further agree to notify the Village Manager when a Reforestation Tree has been planted.

4. The Applicant agree to maintain the Reforestation Tree(s) at the Applicant's sole expense and the Applicant shall not remove, destroy, or impair the health of the Reforestation Tree(s) in any way without the express prior written consent of the Village.
5. The Applicant acknowledges that compliance with this Consent Agreement is necessary for the protection of the public health, safety and welfare of the residents of the Village.
6. The effective date of this Consent Agreement is the date the Village Manager signs the Agreement signifying that she has been informed by the Village Board of Managers that the Consent Agreement has been approved.

THE MARYLAND NATIONAL CAPITAL PARK
AND PLANNING COMMISSION

ATTEST:

By: _____
Patricia Colihan-Barney, Executive Director

By: _____
Joseph C. Zimmerman,
Secretary-Treasurer

CHEVY CHASE VILLAGE

By: _____
Shana R. Davis-Cook, Village Manager

Approved as to form and legal sufficiency:

Suellen M. Ferguson, Village Attorney



REVIEW AND APPROVAL		ISSUED FOR PROCUREMENT ON _____		REVISIONS	
	Date	Rev. No.	Date	Description	
Project Manager					
Construction Manager					
Plant Manager					

**The Maryland-National Capital
Park and Planning Commission**
Montgomery County Department of Parks
9500 Brunnet Avenue
Silver Spring, Maryland 20901
(301) 495-2535



PRELIMINARY
NOT FOR CONSTRUCTION

DESIGN		Professional Certification: I hereby certify that the design documents were prepared or approved by me, and that I am a duly licensed landscape architect under the laws of the State of Maryland.	
A. WORTON THOMAS AND ASSOCIATES, INC. Design Office Name 8000 Aspen Hill Boulevard Fourth Floor Bethesda, MD 20812 Maryland 301-481-2245 Telephone Number	Landscape Architect Architect Engineer Designer	Created By Date Checked By Date Created By Date Checked By Date	License No. _____ Expiration Date _____

Exhibit B

AMT
A. MORTON THOMAS & ASSOCIATES, INC.
3000 Old Farm Road, Suite 100
Baltimore, MD 21202
(410) 524-1234
FAX (410) 524-1235

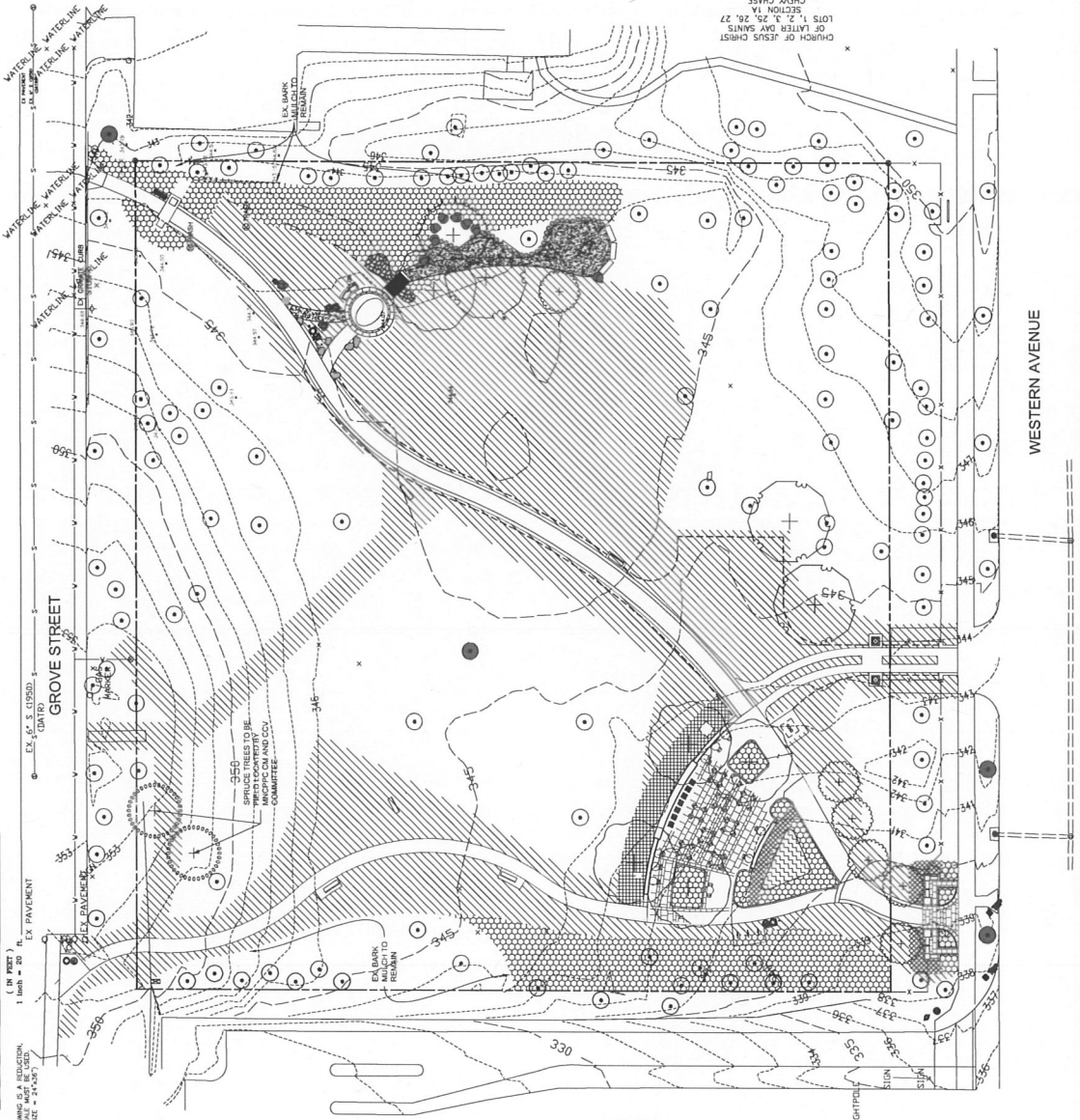
DWG. #
L107

PLANTING PLAN

WESTERN GROVE PARK
5409 Grove Street, Chevy Chase, MD 20815
Liber 2100 Folio 117

SHEET 25 OF 34

GRAPHIC SCALE
1" = 40'
1" = 80'
1" = 160'



NOTES:
1. CONTRACTOR TO PROVIDE AND INSTALL SHREDDED HARDWOOD MULCH FOR EXISTING TREES PER MANIPHS ON INSTRUCTION.
2. ALL TREES, SHRUBS, AND GROUNDCOVERS NOTED AS INC (NOT IN CONTRACT) ARE SHOWN FOR INFORMATION ONLY AND WILL BE INSTALLED BY THE OWNER. TREES NOTED FOR TRANSPORT, REMOVAL AND REPLANTING WILL BE INSTALLED BY THE OWNER.
3. CONTRACTOR TO INSTALL SOD AND MICROBIORENT PLANTING AS SHOWN.

PARCEL C, BLOCK B, SECTION 1A
CHEVY CHASE

PLANT SCHEDULE	CODE	QTY	COMMON NAME	CODE	QTY	COMMON NAME
NS	5	175	HYDRANGEA	NS	5	HYDRANGEA
TD	1	1	HYDRANGEA	TD	1	HYDRANGEA
CO	6	1	HYDRANGEA	CO	6	HYDRANGEA
PP	2	1	HYDRANGEA	PP	2	HYDRANGEA
UC	3	1	HYDRANGEA	UC	3	HYDRANGEA
SP	10	1	HYDRANGEA	SP	10	HYDRANGEA
UP	200	1	HYDRANGEA	UP	200	HYDRANGEA
SP	1,180	1	HYDRANGEA	SP	1,180	HYDRANGEA

DESIGN		REVISIONS	
Design	Checked By	Rev. No.	Date
Drawn	Checked By		
Engineer	Checked By		
Checker	Checked By		

A. MORTON THOMAS & ASSOCIATES, INC.
3000 Old Farm Road, Suite 100
Baltimore, MD 21202
(410) 524-1234
FAX (410) 524-1235

Chevy Chase Village

Statement of Appeal for Tree Removal Permit

Subject Property: Western Grove Park 5409 Grove Street, Chevy Chase, MD	
Briefly Describe the Proposed Tree Removal (provide additional detail on following pages): See Attached Letter dated 6/30/15	
Applicant Name(s) (List all property owners): Linda Komes, M-NCPPC, Montgomery County Department of Parks	
Daytime telephone: 301-850-2860	Cell:
E-mail: linda.komes@montgomeryparks.org	
Address (if different from property address): 9500 Brunett Ave., Silver Spring, MD 20901	
For Village staff use: Date this form received: <u>6/30/15</u> Tree Removal Permit Appeal No: <u>A-2195</u>	

Filing Requirements:

(Application will not be accepted or reviewed until the application is complete.)

- ☐ Completed *Chevy Chase Village Statement of Appeal for Tree Removal Permit* (this form)
- ☐ Denied *Chevy Chase Village Tree Removal Permit Application*
- ☐ *Chevy Chase Village* Tree Inspection Report from Village Arborist
- ☐ Surveys, plats, landscaping plans/specifications, or other accurate drawings showing boundaries, dimensions, and area of the property, as well as the location and dimensions of all structures/fences/walls/etc. and the tree(s) sought to be removed.
- ☐ Appeal fee (See fee schedule in Chapter 6 of the Village Code).

Affidavit

I hereby certify that I have the authority to submit the foregoing appeal, that all owners of the property have signed below, that I have read and understand all requirements and that I or an authorized representative will appear at the scheduled public hearing in this matter. I hereby authorize the Village Manager, or the Manager's designee, the Board of Managers, and members of the Village Tree Committee, to enter onto the subject property for the purposes of assessing the site in relation to this appeal. I hereby declare and affirm, under penalty of perjury, that all matters and facts set forth in the foregoing statement are true and correct to the best of my knowledge, information and belief.

Applicant's Signature: Linda Komes

Date: 6.30.15

Applicant's Signature: _____

Date: _____

Describe any proposed reforestation and whether the proposed reforestation includes any trees that meet the Village standards for reforestation (i.e., deciduous hardwood trees that are least 2 ½ inches in caliper at the time of installation and of a species that achieves a mature height of at least 45 feet):

See attached letter, dated 6/30/15.

Describe any hardship that would result if the requested tree removal is denied:

See attached letter, dated 6/30/15.

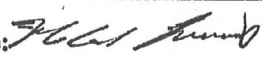
Describe the reasons why preserving the tree(s) is not desirable because of the age, size or outstanding qualities, including uniqueness, rarity or species specimen, of the tree(s):

See attached letter, dated 6/30/15.

Describe any other relevant matters that you believe would promote fairness and justice in deciding this appeal:

See attached letter, dated 6/30/15.

In authorizing a Tree Removal Permit as a result of this appeal, the Chevy Chase Village Board of Managers may require such conditions, terms or restrictions as it deems necessary in order to protect the public, health, safety or welfare, the reasonable use of adjoining properties and that will substantially effectuate the purpose and intent of Chapter 17 of the Chevy Chase Village Code.

Appeal Fee: \$250.00	Checks Payable To: Chevy Chase Village 5906 Connecticut Ave. Chevy Chase, MD 20815
Fee Paid: N/A	Staff Signature: 
Date Paid:	Date: 7/1/15



MONTGOMERY COUNTY DEPARTMENT OF PARKS
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

June 30, 2015

Michael W. Younes, PMP
Director of Municipal Operations
Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

Dear Mr. Younes,

The purpose of this letter is to request permission from the Village Board to remove five trees from Western Grove Park and one along the Grove Street public right-of-way. The Maryland-National Capital Park and Planning Commission (M-NCPPC) in partnership with Chevy Chase Village, is developing 5409 Grove St., Chevy Chase, MD., as Western Grove Park. The park is envisioned as passive in nature with pathways, a seating area with a water feature/fountain, a small play area, and a large, open unprogrammed, green area. Because the site was formerly a large single family home in a well-established neighborhood, the existing site features a mature landscape with many significant trees and shrub masses.

A guiding principle in the design of the park was preservation and enhancement of the park's bucolic landscape. During the design process, each tree within and around the perimeter of the park was identified, located and assessed by a licensed arborist. A number of different designs were prepared and studied in order to achieve tree preservation goals, accommodate the low key development program, and minimize long term maintenance requirements. Staff from M-NCPPC including the Project Manager/Landscape Architect, Park Civil Engineer, Park Manager and Park Arborist met onsite with Village representatives including you, and the Arborist for the Village as well as the Arborist for DC, to look at the trees in and around the park.

Upon careful consideration and discussion with Chevy Chase Village and its Design Committee, the final plan shows the removal of 12 trees. The Village arborist has administratively approved the removal of five of the trees, and one was previously removed by the Park Manager because it was dead. It is my understanding that the Village Board must grant permission for removal of the remaining six trees by resolution. This letter requests the removal of the following five trees:

1. Blue Spruce (T26)-12.5" dbh, in good condition. It is necessary to remove this tree because it is located within 6 feet of the fountain wall and will be significantly impacted by construction of the wall and its footing and create liability and maintenance concerns. Various designs were studied in an attempt to save Trees 5 and 6. It was decided that it would not be possible to include a seating area and fountain and preserve the trees.
2. Blue Spruce (T27)-12.5" dbh, in good condition. This tree is located approximately 10 feet from Tree #5 above and is to be removed for the same reasons.
3. Flowering Dogwood (T33)-10" dbh, in good-average condition. This tree will be significantly impacted by the construction of the seating plaza, maintenance drive and main walkway and will

need to be removed. It is noted that Dogwoods are not extremely long lived trees and this tree, although relatively healthy is reaching towards the end of its life span.

4. Blue Spruce (T83)- 11" dbh, in good condition. This tree's critical root zone will be significantly impacted by the play area surfacing and underdrain and will not survive. A replacement tree such as a Bald Cypress is proposed to be replanted in this area.
5. Willow Oak (T120) – 10.5" dbh, lopsided canopy. This tree is growing in the park along Grove Street and is misshapen and lopsided. Its critical root zone will be significantly impacted by construction of the new pedestrian sidewalk.

The planting plan is still being developed for the park. We plan to obtain plants from our Pope Farm nursery and work with the Design Committee on the final plan. We will be planting a minimum of 15 additional canopy trees to include Black Gum and Bald Cypress, in addition to masses of shrubs and perennials.

Please do not hesitate to contact me if you have any questions or comments. I look forward to continuing to work with you on this important project.

Sincerely,



Linda Komes, RLA, AICP, CPSI
Project Manager
Park Development Division
301-650-2860
Linda.komes@montgomeryparks.org

Feather & Assoc.

Tolbert V. Feather, Ph.D.

*Advisors for: Landscape Development
Landscape Management, Plant Pest Management*

Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

May 11 2015
revised 5-15-15

RE: Public Tree Removal Western Grove Park

Photos attached.

The following trees are requested for removal.

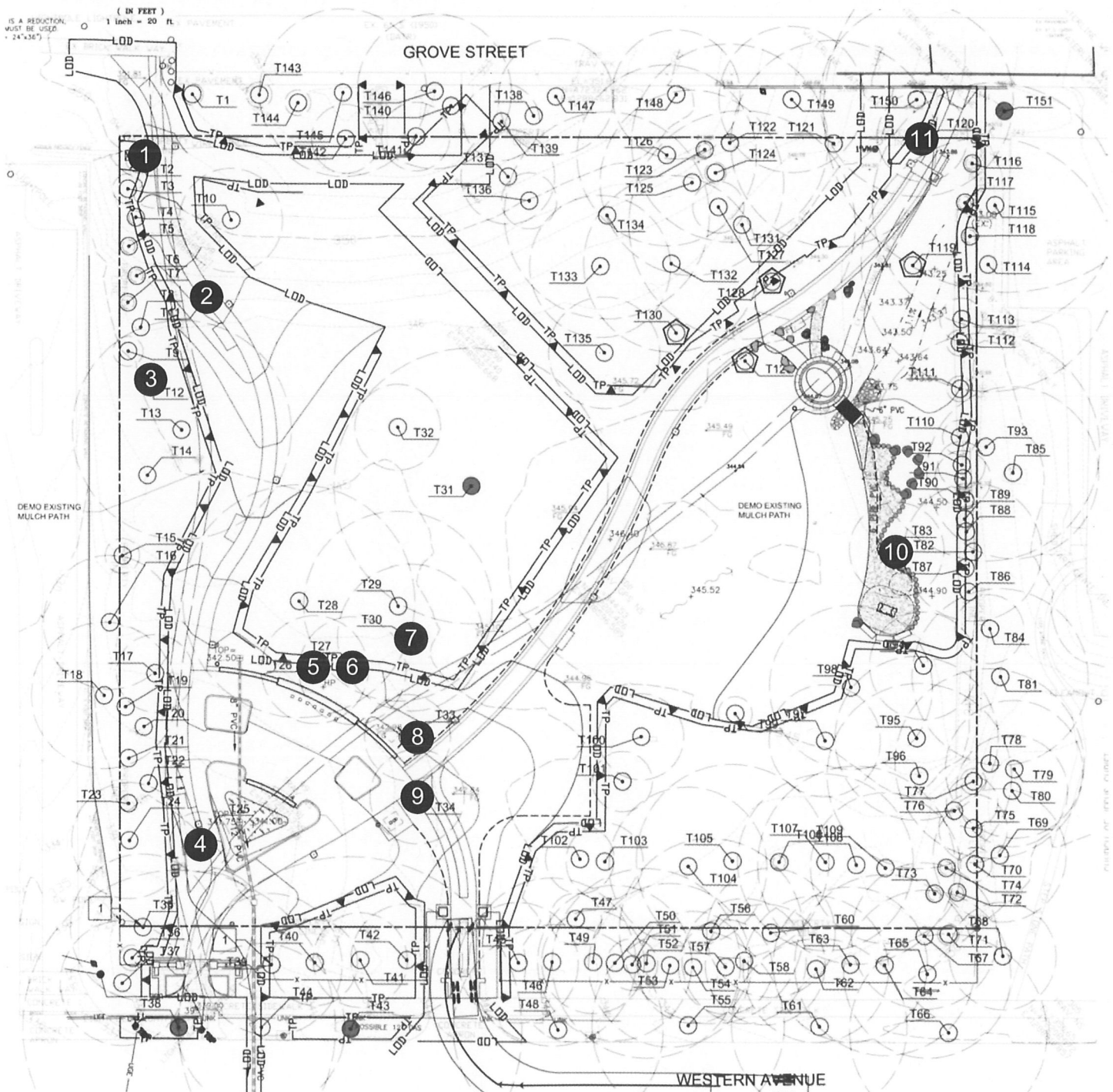
Tree names in **bold** have been recommended for removal to the Town Manager.

1. **Bur Oak** 3.5" dbh Tree T2 is under 24" circumference and may be removed without a permit.
2. **Chestnut Oak** 2" dbh Tree T11 is under 24" circumference and may be removed without a permit.
3. Deodar Cedar 2" dbh Tree T12 is no longer on site.
4. **Crabapple Tree** T25 is sprouted from the rootstock and not the crabapple that was planted. This tree is not multi-stemmed and is of little value and difficult to maintain. The tree may be removed.
- * 5. Blue Spruce 12.5" dbh Tree T26 is healthy and may not be removed.
- * 6. Blue Spruce 12.5" dbh Tree T27 is healthy and may not be removed.
7. **Arborvitae** 17" dbh Tree T30 may be removed because the Board has designated Arborvitae as and undesirable tree.
- * 8. Flowering Dogwood 10" dbh Tree T33 is healthy and may not be removed.
9. **Arborvitae** 11" dbh Tree T34 may be removed because the Board has designated Arborvitae as and undesirable tree.
- * 10. Blue Spruce 11" dbh Tree T83 is healthy and may not be removed.
- * 11. Willow Oak 10.5" dbh Tree T120 is healthy and may not be removed.



Tolbert V. Feather, Ph.D

Location of trees requested for removal





Tree 1 Bur Oak



Tree 2 Chestnut Oak



Tree 4 Crabapple



Tree 5 Blue Spruce



Tree 6 Blue Spruce



Tree 7 Arborvitae



Tree 8 Flowering Dogwood



Tree 9 Arborvitae



Tree 10 Blue Spruce



Tree 11 Willow Oak

Chevy Chase Village Tree Removal Permit Application

Permit No. 2195

All trees on private property with trunks that measure at least twenty-four (24) inches in circumference (or 7.7 inches in diameter) at four and one-half (4½) feet above ground level require a Village permit to be removed.

Property Address: <u>5409 Grove St.</u>	
Resident:	
Telephone:	
E-mail:	
Tree Removal Contractor (required and must be a Maryland Licensed Tree Expert):	
Business Name:	
Owner: <u>M-NCPPC / Linda Komes, Project Manager</u>	
Address: <u>9500 Brunnett Ave</u>	
Telephone: <u>301-650-2860</u>	Fax: <u>301-585-1921</u>
E-mail: <u>linda.komes@montgomeryparks.org</u>	
MD Dept. of Natural Resources (DNR) Licensed Tree Expert (LTE) No. (required):	
For Village office staff use:	
Is this property located within the historic district? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Staff initials <u>JK</u>
Verification of species pursuant to Sec. 17-3(a)(7): <u>N/A</u>	Staff initials <u>JK</u>
Date application submitted to Village Office: <u>7/8/15</u>	Date approved or denied: _____

Village Code Chapter 17. Urban Forest §17-1 and 17-2. Permit Required.

"No person shall remove or destroy, or cause the removal or destruction, of a tree or undertake any action that will substantially impair the health or growth of a tree without first obtaining a permit from the Village Manager. No permit shall be required for normal and reasonable trimming or other tree care designed to maintain the health, shape, or balance of a tree."

Village Code §17-3. Permit Standards.

The Village Manager may issue a permit *only* if at least one (1) of the following conditions applies:

- The tree is diseased beyond restoration, insect infected beyond restoration, or injured beyond restoration;
- The tree is dead or dying, or is in danger of falling;
- The tree constitutes a hazard to the safety of persons;
- The tree constitutes a hazard and threatens injury to property;
- The tree constitutes a hazard and threatens injury to, or would have a negative effect on the health of other trees;
- The tree is injurious to or creates a condition injurious to the health of a person, certified to by a qualified medical practitioner;
- The tree is on a list of tree species of little value, as determined by the Board of Managers after consultation with the Village arborist and Village Tree Committee.

An applicant who is denied a tree removal permit by the Village Manager may appeal that decision to the Board of Managers. Any appeal must be in writing and made within ten (10) days of the permit denial.

Filing Requirements

- Copy of the findings and recommendations report from the Village Arborist or, pursuant to Sec. 17-3(a)(7), Village staff.
- This completed application, including the tree contractor's name, phone number and MD-DNR License No.
- Payment of \$50.00 per tree filing fee for a Village Tree Removal Permit application, up to a max. of \$350.

Do you intend to reforest on your property? Yes

REFORESTATION INCENTIVE

Under the new Tree Incentive Program, the Village will reimburse residents for up to half of the total costs to a maximum of \$175 for the purchase and planting of qualifying canopy trees on privately owned properties. Additionally, applicants for Tree Removal Permits will be refunded their permit filing fee if they plant a canopy tree within six months of receiving a Village Tree Removal Permit.

By signing below, I understand that no work may be performed until the Village permit is issued and posted to be visible from the street.

Applicant's Signature: [Signature] Date: 7/8/15

Tree Removal Plans (including reforestation plan, if any)

See attached plan

For Use By Village Manager

JUL 8 2015

Chevy Chase

Village Manager

For Use By Village Manager

JUL 8 2015

Chevy Chase

Village Manager

Approved with the following conditions:

Thank you - See Arborist's report dated (rev.) 5/15/15
Trees no. 1, 2, 3, 4, 7 and 9

Denied for the following reasons:

Thank you
Trees are healthy.
NOS. 5, 6, 8, 10, 11 as identified on Village Arborist's report dated (rev.) 5/15/15.

Filing Fee:

\$50.00/tree x 1/4 trees =
\$ 12.50
(up to \$350 max. per application)

Checks Payable to:

Chevy Chase Village
5906 Connecticut Avenue
Chevy Chase, MD 20815

Damage Deposit

- ☐ \$ _____
- ☐ Waived by Village Manager.

Village Manager Signature:

Date:

Total Fees + Deposit:

12.50

Staff Signature: [Signature]

Date: 7/8/15